

	<b>GAITHERSBURG POLICE DEPARTMENT</b>			
	<b>Arrest Alternatives and Citation Issuance</b>			
	<b>GENERAL ORDER</b>	<b>800.3</b>		Related CALEA Standards: 1.1.3, 1.2.6, 44.2.1, 55.1.1, 55.1.3, 55.2.3, 82.2.3, 82.3.1, 82.2.4
	<b>Effective Date</b>	<b>01/01/2013</b>		
<b>Authorized by:</b>	<b>Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE	DATE	

**I. PURPOSE**

There are a variety of situations which can be resolved more suitably by exercising alternatives to arrest. Because there are public and private agencies that provide services of a varied nature to the community, the Department authorizes and encourages officers to make referrals to these agencies as appropriate, since often an arrest may not solve or adequately address the underlying problem.

**II. POLICY**

Officers will exercise their best judgment in utilizing citations and other arrest alternatives, when lawful to do so and in the best interests of all involved parties. The race/ethnicity or gender of an alleged violator shall play no role in an officer's decision on whether to arrest, issue a criminal citation or make another referral. An officer making a referral is not relieved from his or her duties regarding completing and submitting required reports, keeping the victim informed of case status and responsibilities for follow-up investigation.

Nothing in this policy shall be construed to alter the authority of an officer to make an arrest, conduct a search or seizure, or otherwise fulfill an officer's law enforcement obligations.

**III. DEFINITIONS**

**A. Citation-Eligible Adult**

Within the context of this directive, the term "citation-eligible adult" refers to a person who is 18 years of age or older, is being charged with a citation-eligible offense, and the arrest/charging situation meets all of the following criteria:

1. The officer is satisfied with the defendant's evidence of identity;
2. The officer reasonably believes that the defendant will comply with the citation;
3. The officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;

4. The defendant is not subject to arrest for another criminal charge (that is not citation-eligible) arising out of the same incident; and
5. The defendant complies with all lawful orders given by the officer.

**B. Citation-Eligible Offense**

Within the context of this directive, the term “citation-eligible offense” refers to the following:

1. Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
2. Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less;
3. Possession of marijuana under § 5-601 of the Criminal Law Article; and
4. Is NOT one of the following exceptions:
  - a) Failure to comply with a peace order, under § 3-1508 of the Courts Article;
  - b) Failure to comply with a protective order, under § 4-509 of the Family Law Article;
  - c) Violation of a condition of pre-trial or post-trial release while charged with a sexual crime against a minor, under § 5-213.1 of the Criminal Procedure Article;
  - d) Possession of an electronic control device after conviction of a drug felony or crime of violence, under § 4-109(b) of the Criminal Law Article;
  - e) Violation of an out of state domestic violence order, under § 4-508.1 of the Family Law Article; and
  - f) Abuse or neglect of an animal, under § 10-604 of the Criminal Law Article.

**C. Processing**

Within the context of this directive, the term “processing” refers to procedures that are reasonably necessary for collecting identifying information about a defendant. These procedures may include, but are not limited to, computer checks (NCIC / METERS), fingerprinting (or mobile AFIS) and photographing of the defendant.

#### **IV. PROCEDURE**

##### **A. General Provisions**

1. Officers should consider that, in a number of cases, a verbal or written warning may be sufficient enforcement action for some very minor offenses (i.e., jaywalking). In such instances, the formal placing of charges may not be the most appropriate action unless the violation is deliberate and/or repeated.
2. Some other minor offenses and non-criminal situations can be resolved by referral to an appropriate social service agency.

##### **B. Issuance of Citations**

1. As an alternative method by which to charge violators, criminal and/or civil citations may be issued under certain circumstances for specific offenses.
  - a) The issuance of citations is authorized under Criminal Procedure Article § 2-202 and § 2-203.
  - b) Before a citation can be issued, all tests for probable cause and under the Laws of Arrest must be met.
  - c) If an officer or a citizen desires to place criminal charges against a violator, and a lawful arrest cannot be made, the officer or citizen will have to appear before a commissioner to apply for a charging document.
2. Criminal or civil offense citations are for issuance to defendants at or near the scene of incidents. However, the citation may be issued elsewhere (i.e., police station, hospital, or a short distance away from scene), if the situation requires removal of the defendant from a scene, in the interest of preserving the peace.
3. Violators meeting the criteria for a citation-eligible adult shall be charged by means of a criminal/civil citation, for citation-eligible offenses.
  - a) If a citation-eligible offense is charged via statement of charges the arresting officer shall articulate, at both the end of the statement of probable cause and within the associated event report narrative, the reason(s) why the defendant was not a citation-eligible adult.
  - b) When charging a citation-eligible adult by criminal citation, the officer may either:

- 1) Issue a citation in lieu of making an arrest; or
  - 2) Make the arrest, perform any processing appropriate to the offense, and issue a citation in lieu of continued custody.
5. An officer issuing any citation will:
  - a) Legibly complete both sides of the citation in as much detail as possible;
  - b) Complete an event report containing a statement of probable cause within the report narrative;
  - c) Indicate the maximum penalty the court can impose for the offense;
  - d) Complete a "State's Attorney's Witness Information" form in order to have witness summonses issued;
  - e) Ensure the citation indicates that the defendant will be notified of the court date;
  - f) Retain a copy of the citation, from which to testify, and forward the remaining copies for supervisory approval.
  - g) After supervisory approval, citations are forwarded for entry to the Master Name Index and GRIP Intelligence database, copying and filing, and appropriate distribution to the Court Liaison Officer.
6. It is permissible to take a photograph of the defendant because it serves as evidence that the defendant was at the scene and documents injury, when applicable.
7. The defendant must sign the citation. Refusal to sign indicates that the defendant will not comply with the conditions of the citation and the defendant is, therefore, no longer a citation-eligible adult.
8. Once the citation is issued, whether at the scene or elsewhere, the defendant shall be issued his or her copy of the citation and statement of probable cause, then released without unnecessary delay.
9. If an individual has been arrested and taken to CPU, a statement of charges must be completed and related violations will not be charged on a citation.

10. Criminal citations cannot be issued to juveniles and juveniles shall not be arrested for alcohol or tobacco offenses.
  - a) Juveniles may be taken into custody for other charges that are criminal, but alcohol and tobacco violations may only be charged on the Civil Alcohol/ Tobacco Citation.
  - b) Pursuant to § 3-835 of the Courts and Judicial Proceedings Article, the only citations a juvenile may be issued are for alcohol and tobacco related offenses (Criminal Law Article, § 10-113 through § 10-118 and Education Article § 26-103).
11. Criminal citations will be issued based on probable cause that the cited violation has occurred and in accordance with existing law. Any officer who issues a citation outside the boundaries of this directive could be deemed in violation of this directive, and/or Maryland law, and may be subject to disciplinary action. The issuance could also result in the State's Attorney's Office electing not to pursue the case.
12. In compliance with Maryland law, the Department collects and reports the following data to the Maryland State Police on all criminal citations issued:
  - a) Citation number;
  - b) Date, location and time of issuance;
  - c) Offense charged;
  - d) Gender of the offender;
  - e) Date of birth of the offender;
  - f) State of residence (and county, if available) of the offender; and
  - g) Race / ethnicity of the offender as:
    - 1) Asian;
    - 2) Black;
    - 3) Hispanic;
    - 4) White; or
    - 5) Other.
13. Department management shall review the data collected and reported to the Maryland State Police, as well as the annual report issued by the Maryland Statistical Analysis Center, using the

information as a training tool to foster non-discriminatory policing.

14. The recording and evaluating of statistical data is a management tool to be used, where appropriate, as a basis for counseling and training and, if deemed necessary, further administrative inquiry.
15. The periodic review and evaluation of this data will also be used as a management tool to identify patterns of prohibited activity or non-adherence to established Department procedure regarding the issuance of criminal citations.

**C. Referrals to other Agencies**

1. In situations such as when a lawful arrest cannot be made, an appropriate referral may be made to the commissioner's office or State's Attorney's Office. An officer referring a citizen to the commissioner to apply for a charging document shall provide the citizen with the CR number and write an appropriate incident report.
2. When an adult is arrested, the defendant is essentially referred to the judicial system. In the case of juveniles, arrests are referred to the Department of Juvenile Justice for disposition.
3. When a juvenile is alleged to have committed a delinquent act, but is not actually arrested, the case is "closed by exception" on the incident report and referred to the MCP Family Crimes Division (see General Order 901.1 – Charging Juveniles).
4. There are times when officers will encounter individuals (both adults and juveniles) whose situation may be better managed by another agency. In such cases, a timely referral may effectively solve the underlying problem.
5. If the person to be referred has committed a crime and the victim has been located, the victim must be consulted regarding the officer's decision to refer the individual to an appropriate program, prior to the referral being made, to ensure that the victim consents to the officer's referral decision.

**D. Services Available**

1. Services available to juveniles which may be of assistance are:
  - a) Department of Juvenile Justice – 301-279-1580;

- b) MCP Family Crimes Division – 240-773-5400;
  - c) Guide Youth Services – 301-590-9864;
  - d) Potomac Ridge Treatment Center, Operation Runaway – 301-251-4545.
2. The following programs may be of assistance for adults and families:
- a) Montgomery County Crisis Center – 240-777-4000;
  - b) Alcoholics Anonymous – 202-966-9115;
  - c) Legal Aid Bureau – 301-942-8100;
  - d) Lawyer Referral Service – 301-279-9100;
  - e) Public Defender's Office – 301-279-1660 or 240-773-9600;
  - f) Operation Runaway – 1-800-204-8600; and
  - g) Wells-Robertson House – 301-258-6390.
3. Officers must be sensitive to the needs of victims and/or to those who would benefit from crisis intervention programs. Listed below are some programs that may be of assistance:
- a) Abused Persons Program – 301-315-4673;
  - b) Adult Protective Services – 240-777-3000;
  - c) Shelter Hotline – 301-424-9100;
  - d) Lawyer Referral Service – 301-279-9100;
  - e) Human Relations Commission – 301-468-4260;
  - f) Jewish Social Service Agency – 301-881-3700;
  - g) Sexual Assault Service – 301-315-HELP (4357);
  - h) Suicide Hotline – 301-738-2255;
  - i) Widowed Persons Services – 301-949-7398.

- j) In some cases, the MCP Victim Advocate is available via PSCC.
4. Members are encouraged to utilize the Wells-Robertson House advisors for alternative solutions to assist victims.